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In re Application of
Forbes et al. : : : :
Application No.: 10/508,966 : : DECISION ON
PCT No.: PCT/GB03/01327 : :
Int. Filing Date: 20 March 2003 : : PETITION UNDER
Priority Date: 27 March 2002 : :
Attorney Docket No.: 424662008900 : : 37 CFR 1.47(a)
For: Refrigerating Apparatus : :

This is a decision on applicant's "Petition Under 37 CFR 1.47(a)" filed on 13 December 2004.

BACKGROUND

This international application designated the U.S., was filed on 20 March 2003 and claimed earliest priority of an application filed on 27 March 2002. The International Bureau transmitted a copy of the published international application to the USPTO on 09 October 2003. Accordingly, the 30 month time period for payment of the basic national fee in the U.S. expired as of midnight on 27 September 2004. On 24 September 2004, applicants filed *inter alia* the basic national fee.

DISCUSSION

Counsel requests that the absence of the signature of joint inventor Dr. Steve C. J. Parker on the declaration of the inventors be excused pursuant to 37 CFR 1.47(a). A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Regarding requirement (1), the petition fee has been paid.

Regarding requirement (2), the petition is accompanied by a "Declaration Of Janet Smith" signed by Ms. Smith and describing her efforts to obtain Dr. Parker's signature on the declaration and suggesting that Dr. Parker refused to sign the declaration. Inspection of the documentary evidence supporting Janet Smith's statement, including the letters received from Dr. Parker, reveals that Dr. Parker has refused to sign the declaration within the meaning of 37 CFR 1.47(a).

Regarding requirement (3), the petition includes a statement of the last known addresses of Dr. Parker. Accordingly, requirement (3) has been satisfied.

Regarding requirement (4), the declaration of the inventors accompanying the petition names an inventive entity, consisting of Andrew Forbes, Mark Philip Taylor, and Dr. Stephen Parker, which differs from the inventive entity named in the published international application to the extent that the published international application names "Parker, Steve, C., J." Review of the documentary evidence accompanying the petition suggests that the instant declaration does not properly name Dr. Parker, since said evidence clearly indicates that Dr. Parker's given name is "Steve" rather than "Stephen." A third declaration, signed on Dr. Parker's behalf, has also been filed, but the signature appearing on that declaration does not appear to be that of either joint inventor. As such, the declarations do not appear to be signed on behalf of Dr. Parker by the other joint inventors, since some person other than the other joint inventors has apparently signed on Dr. Parker's behalf. Counsel is required to submit an executed oath or declaration which properly names the inventors, and which is executed by the signing inventors on behalf of themselves and Dr. Parker. Presently, for the reasons described above, requirement (4) has not been satisfied.

DECISION

The petition is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.



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